

AMENDMENTS TO THE CLAIMS

The following listing of claims, in which added text is underlined and deleted text is stricken through, will replace all prior versions and listings of claims in the application.

1. (Currently Amended) An isolated nucleic acid molecule defining a promoter which confers or enhances the ability of an operably linked sequence to be expressed, wherein the promoter comprises any one of:

- (i) a sequence of nucleotides having the sequence set forth in SEQ ID NO:3;
- (ii) a fragment of (i) wherein said fragment comprises residues 2298 to 2384 of SEQ ID NO:3;
- (iii) ~~a sequence of nucleotides with at least 95% identity to the sequence of nucleotides of (ii); or~~
- (iv)(iii) a sequence of nucleotides complementary to any one of (i)[,.] or (ii) ~~or~~ (iii).

2-6. (Canceled)

7. (Currently Amended) An isolated promoter which confers or enhances the ability of an operably linked sequence to be expressed, the operably linked sequence comprising a structural gene or other nucleic acid; wherein the promoter is obtainable by a method of isolating a genomic DNA or a portion thereof from plant cells, rendering the genomic DNA or the portion thereof single stranded and then hybridizing to the genomic DNA or the portion thereof a primer corresponding to ~~all or part of~~ SEQ ID NO: 1 or a complementary form thereof and ~~cloning DNA isolating nucleic acid~~ isolating nucleic acid upstream of the ~~region of primer hybridization, wherein the promoter primer~~ that comprises any one of:

- (i) a sequence of nucleotides having the sequence set forth in SEQ ID NO:3;
- (ii) a fragment of (i) wherein said fragment comprises residues 2298 to 2384 of SEQ IDNO:3;
- (iii) ~~a sequence of nucleotides with at least 95% identity to the sequence of nucleotides of (ii); or~~
- (iv)(iii) a sequence of nucleotides complementary to any one of (i)[,.] or (ii) ~~or~~ (iii).

8. (Canceled)

9. (Currently Amended) The isolated promoter of claim 1 obtainable by the method of:

(i) amplifying a region of single stranded plant genomic DNA with the primers SEQ ID NO:4 and SEQ ID NO:5;

(ii) optionally amplifying the amplified DNA of (i) above with primers selected from SEQ ID NO:6 and SEQ ID NO:7 or SEQ ID NO:8 and SEQ ID NO:9;

(iii) running amplified DNA on a gel and excising the product of amplification; and

(iv) ~~subcloning product and identifying the promoter~~isolating nucleic acid from the product of amplification that comprises any one of:

(a) a sequence of nucleotides having the sequences set forth in SEQ ID NO:3;

(b) a fragment of (a) wherein said fragment comprises residues 2298 to 2384 of SEQ ID NO:3; and

(c) a sequence of nucleotides complementary to any one of (a) or (b).

10. (Canceled).

11. (Previously Presented) A genetic construct comprising the promoter of claim 1, 7, or 9.

12. (Previously Presented) The genetic construct of claim 11, wherein the structural gene or other nucleic acid is operably linked to said promoter.

13. (Previously Presented) A method of altering a characteristic of a plant, the method comprising:

introducing the genetic construct of claim 12 into a cell or group of cells of the plant, wherein the structural gene or the other nucleic acid alters the plant characteristic; regenerating a plant or plantlet from said cell or group of cells carrying the introduced structural gene or the other nucleic acid; and

growing or subjecting said plant or plantlet to conditions sufficient to induce the promoter operably linked to the structural gene or the other nucleic acid which then alters the plant characteristic.

14. (Previously Presented) The method of claim 13, wherein the altered plant characteristic comprises resistance to a plant pathogen, altered nutritional characteristics, expression of a plantabody, an altered biochemical pathway, altered fertility or altered flower color.

15. (Currently Amended) A modular promoter, comprising at least one portion which is obtained from a promoter, wherein the at least one portion comprises anyone of:

- (i) a sequence of nucleotides having the sequence set forth in SEQ ID NO:3;
- (ii) a fragment of (i) wherein said fragment comprises residues 2298 to 2384 of

SEQ IDNO:3.

~~(iii) a sequence of nucleotides with at least 95% identity to the sequence of nucleotides of (ii); or~~

~~(iv)(iii) a sequence of nucleotides complementary to anyone of (i)[[.]] or (ii) or (iii).~~

16-18. (Canceled)

19. (Currently Amended) A transgenic plant comprising the nucleic acid molecule according to anyone of claims 1 or 36.

20. (Previously Presented) A vegetative or a reproductive portion of the transgenic plant of claim 19.

21. (Previously Presented) A cut or severed flower from the transgenic plant of claim 19.

22-25. (Canceled)

26. (Previously Presented) The isolated nucleic acid molecule according to claim 1, wherein the promoter comprises a fragment comprising residues 1773-2384 of SEQ ID NO:3.

27. (Previously Presented) The isolated nucleic acid molecule according to claim 1, wherein the promoter comprises a fragment comprising residues 1601-2384 of SEQ ID NO:3.

28. (Previously Presented) The isolated nucleic acid molecule according to claim 1, wherein the promoter comprises a fragment comprising residues 1357-2384 of SEQ ID NO:3.

29. (Previously Presented) The isolated nucleic acid molecule according to claim 1, wherein the promoter comprises a fragment comprising residues 1189-2384 of SEQ ID NO:3.

30. (Previously Presented) The isolated nucleic acid molecule according to claim 1, wherein the promoter comprises a fragment comprising residues 819-2384 of SEQ ID NO:3.

31. (Previously Presented) The isolated promoter of claim 7, wherein the promoter comprises a fragment comprising residues 1773-2384 of SEQ ID NO:3.

32. (Previously Presented) The isolated promoter of claim 7, wherein the promoter comprises a fragment comprising residues 1601-2384 of SEQ ID NO:3.

33. (Previously Presented) The isolated promoter of claim 7, wherein the promoter comprises a fragment comprising residues 1357-2384 of SEQ ID NO:3.

34. (Previously Presented) The isolated promoter of claim 7, wherein the promoter comprises a fragment comprising residues 1189-2384 of SEQ ID NO:3.

35. (Previously Presented) The isolated promoter of claim 7, wherein the promoter comprises a fragment comprising residues 819-2384 of SEQ ID NO:3.

36. (Previously Presented) The isolated nucleic acid molecule according to claim 1, wherein the promoter comprises a fragment comprising residues 2016-2384 of SEQ ID NO:3.

37. (Previously Presented) The isolated promoter of claim 7, wherein the promoter comprises a fragment comprising residues 2016-2384 of SEQ ID NO:3.

38. (Currently Amended) The isolated nucleic acid molecule according to claim 1, wherein the promoter comprises a fragment comprising residues 23842298-2473 of SEQ ID NO:3.

39. (Currently Amended) The isolated promoter of claim 7, wherein the promoter comprises a fragment comprising residues 23842298-2473 of SEQ ID NO:3.